

REMARKS

In the outstanding Office Action (the "Office Action") mailed December 12, 2006, the Examiner rejected claims 1, 2, 10, and 11 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,844,807 to Inoue et al. (hereinafter, "*Inoue*"); rejected claims 3-8, 12, and 13 under 35 U.S.C. § 103(a) as being unpatentable over *Inoue* in view of U.S. Patent Application No. 2002/0069276 to Hino et al. (hereinafter, "*Hino*"); and rejected claim 9 under 35 U.S.C. § 103(a) as being unpatentable over *Inoue* in view of *Hino* and further in view of U.S. Patent No. 6,759,967 to Staller (hereinafter, "*Staller*").

By this Reply, Applicant has canceled claims 1-7 and 10-13 without disclaimer or prejudice, and as such, the above-described rejections of those claims are rendered moot. In addition, Applicant has amended claims 8 and 9 to correct informalities and improve form.

Applicant has added new claim 14. Support for claim 14 can be found, for example, on pages 9-13 and Figures 3, 5A, and 5B, and thus new claim 14 does not constitute new matter. Applicant respectfully submits that new claim 14 is allowable over the cited art.

In light of the foregoing amendments and based on the arguments presented below, Applicant traverses the rejections of claims 8 and 9 under 35 U.S.C. § 103(a) and requests the allowance of pending claims 8, 9, and 14.

I. Information Disclosure Statements

The Examiner states "the information referred to [in the "information disclosure statement filed 06/25/2003, 11/05/2003, 01/13/2005 and 04/18/2005] has not been considered as to the merits." Office Action, page 2. The Examiner further states that

"the information disclosure statement[s] . . . includes documents that fail to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because no English translation."

Id. However, Applicant disagrees and, for the reasons contained below, submits that the **Examiner is required by 37 CFR 1.97, 1.98 and MPEP § 609 to consider the following documents:**

- Japanese Patent Publication No. 2001-16221, cited on Form PTO 1449 and referenced in the Information Disclosure Statement filed on June 25, 2003 in the U.S. Patent and Trademark Office (hereinafter, "*IDS I*");
 - French Patent Application No. 2808393, cited on Form PTO 1449 and referenced in the Information Disclosure Statement filed on November 5, 2003 in the U.S. Patent and Trademark Office (hereinafter, "*IDS II*"); and
 - Japanese Patent Publication No. 2001-309455, cited on Form PTO/SB/08 and referenced in the Information Disclosure Statement filed on January 13, 2005 in the U.S. Patent and Trademark Office (hereinafter, "*IDS III*").
- In addition, Japanese Patent Publication No. 2001-309455 was cited on Form PTO/SB/08 and referenced in the Information Disclosure Statement filed on April 18, 2005 in the U.S. Patent and Trademark Office (hereinafter, "*IDS IV*").

An information disclosure statement shall be considered by the Office if filed by the applicant before the mailing of a first Office action on the merits. 37 C.F.R.

§ 1.97(b)(3); MPEP § 609. Any information disclosure statement filed under 37 C.F.R.

§ 1.97 shall include a concise explanation of the relevance. *Id.* If a written English language translation is available, a copy of the translation shall accompany the

statement. 37 C.F.R. § 1.98(a)(3)(ii); MPEP § 609 (emphasis added). Translations are not required unless they have been reduced to writing. *Id.* If no translation is submitted, the examiner will consider the information in view of the submitted concise explanation. *Id.* Where the information listed is not in the English language, but was cited in a search report or other actions by a foreign patent office in a counterpart foreign application, **the requirement for the concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. MPEP § 609(III)** (emphasis added). Once the minimum requirements of 37 C.F.R. § 1.97 and 37 C.F.R. § 1.98 are met, the examiner has an **obligation** to consider the information. *Id.*

Japanese Patent Publication No. 2001-16221 was presented in accordance with 37 C.F.R. § 1.97. In particular, *IDS I*, filed concurrently with Japanese Patent Publication No. 2001-16221 on June 25, 2003, **contained a concise statement of relevance** as required under 37 C.F.R. § 1.97(b)(3) and MPEP § 609. For the Examiner's convenience, Applicant has included copies of Japanese Patent Publication No. 2001-16221, *IDS I*, and a postcard stamped by the U.S. Patent and Trademark Office acknowledging receipt of the aforementioned documents on June 25, 2003. **The relevance of Japanese Patent Publication No. 2001-16221 is discussed on page 2 of *IDS I*.**

Furthermore, French Patent Application No. 2808393 and Japanese Patent Publication No. 2001-309455 were also presented in accordance with 37 C.F.R. § 1.97. With respect to French Patent Application No. 2808393, **the requirement under 37**

C.F.R. § 1.98(a)(3)(ii) for a concise explanation of relevance was met with the submission of the English language search report provided by the European Patent Office, dated September 10, 2003, for corresponding European Patent Application No. EP 03014388. For the Examiner's convenience, Applicant has included copies of the French Patent Application, the English language European Search Report, *IDS II*, and a postcard stamped by the U.S. Patent and Trademark Office acknowledging receipt of the aforementioned documents on November 5, 2003. *IDS II* states that "[i]n lieu of a statement of relevance or translation of the non-English document, enclosed is an English-language European search report from the European Patent Office in a corresponding application citing this reference and setting for the relevance thereof." *IDS II*, page 2. **The relevance of the French Patent Application is discussed on page 1 of the European Search Report.**

With respect to Japanese Patent Publication No. 2001-309455, referenced in *IDS III* and *IDS IV*, **the requirement under 37 C.F.R. § 1.98(a)(3)(ii) for a concise explanation of relevance was met with the submission of the two English language Notices of Reasons for Rejection** in conjunction with the two Japanese language Notices of Reasons for Rejection provided by the Japanese Patent Office for corresponding Japanese Patent Application No. 2002-188444. The Notice of Reasons for Rejection dated December 2, 2004 (hereinafter, "*Notice I*") was cited in *IDS III*, while the Notice of Reasons for Rejection dated March 2, 2005 (hereinafter, "*Notice II*") was cited in *IDS IV*. For the Examiner's convenience, Applicant has included copies of Japanese Patent Publication No. 2001-309455, *Notice I* (including a copy of the English language translation) and *IDS III*, *Notice II* (including a copy of the English language

translation) and *IDS IV*, and postcards stamped by the U.S. Patent and Trademark Office acknowledging receipt of *Notice I* and *IDS III* on January 13, 2005 and *Notice II* and *IDS IV* on April 18, 2005. Both *IDS III* and *IDS IV* state that “[i]n lieu of a statement of relevance or translation of the non-English documents, an English language version of the attached Japanese Patent Office Action is attached.” *IDS III*, page 2; *IDS IV*, page 2. **The relevance of Japanese Patent Application No. 2002-188444 is discussed on page 2 of the English language *Notice I* and page 3 of the English language *Notice II*.**

Therefore, Applicant has **clearly met the requirements** outlined in the MPEP and **the Examiner is required to consider** Japanese Patent Publication No. 2001-016221, French Patent Application No. 2808393, and Japanese Patent Publication No. 2001-309455.

II. New Claim 14 is Allowable Over the Cited References

Applicant respectfully submits that new claim 14 is allowable because none of the cited art references, taken alone or in combination, teach or suggest every claim limitation. For example, new independent claim 14 is allowable because none of the cited references teach or suggest, “[a] network process unit including: a detecting unit configured to detect a power supply control packet in communication packets sent from [an] electronic apparatus, the power supply control packet containing a power-on command for causing [an] AV function unit to recover from a standby mode . . . or a power supply standby command for causing the AV function unit to shift to the standby mode; and a controlling unit configured to cause [an] AV function unit to recover from or

shift to [a] standby mode, when the detecting unit detects the power supply control packet (emphasis added)."

Inoue fails to teach these limitations. Instead, *Inoue* teaches "a home electronics system . . . includ[ing] a home server 22, a cellular phone 46 connected to home server 22 via a public line network 44, and devices for control 24A to 28C controlled in response to a signal from home server 22." *Inoue*, col. 4, ll. 24-29. "Home server 22 includes . . . a microcomputer 32" *Id.* at col. 4, 30-41. "Microcomputer 32 includes a state transmitting unit . . . creating data indicating the state of device 24A to 28C and transmitting to cellular phone 46, and a device control unit . . . for controlling devices 24A to 28C." *Id.* at col. 4, ll. 44-47. "Microcomputer 32 waits until it receives the entered or selected instruction (S54). If the instruction is received (YES in S54), microcomputer 32 operates the controlled device according to the instruction (S56)." *Id.* at col. 7, ll. 8-11. This teaching cannot constitute "[a] network process unit including: a detecting unit configured to detect a power supply control packet in communication packets sent from [an] electronic apparatus, the power supply control packet containing a power-on command for causing [an] AV function unit to recover from a standby mode . . . or a power supply standby command for causing the AV function unit to shift to the standby mode," as recited in new claim 14 (emphasis added). Moreover, *Inoue* fails to teach or suggest "a controlling unit configured to cause [an] AV function unit to recover from or shift to [a] standby mode, when the detecting unit detects the power supply control packet," as also recited in new claim 14 (emphasis added). Indeed, ***Inoue* fails to teach or suggest either "a power supply control packet" or "communication**

packets” and therefore cannot teach or suggest the aforementioned claim recitations. Thus, claim 14 is allowable over *Inoue* at least for this reason.

Staller also fails to teach or suggest these limitations. Instead, *Staller* teaches “a home entertainment system 20, including [a] remote control 22 . . . [and] a plurality of components 24.” *Staller*, col. 2, ll. 15-18. “The remote control . . . ensur[es] all the needed components 24 are powered, correct inputs selected, and correct operations performed.” *Id.* at col. 2, ll. 50-53. “Because the components 24a-d have on/off power switches which are toggle switches, the remote 22 cannot send an ‘on’ command or an ‘off’ command, the remote 22 can only toggle the components 24 between on and off.” *Id.* at col. 3, ll. 33-37. Such a system cannot constitute a teaching or suggestion of “[a] network process unit including: a detecting unit configured to detect a power supply control packet in communication packets sent from [an] electronic apparatus, the power supply control packet containing a power-on command for causing [an] AV function unit to recover from a standby mode . . . or a power supply standby command for causing the AV function unit to shift to the standby mode,” as recited in new claim 14 (emphasis added). Moreover, the system of *Staller* fails to teach or suggest “a controlling unit configured to cause [an] AV function unit to recover from or shift to [a] standby mode, when the detecting unit detects the power supply control packet,” as also recited in new claim 14 (emphasis added). Indeed, ***Staller* also fails to teach or suggest either “a power supply control packet” or “communication packets” and therefore cannot teach or suggest the aforementioned recitations.** Thus, claim 14 is allowable over *Staller* at least for this reason.

Hino also fails in this regard. *Hino* teaches “a remote control system capable of controlling home appliances through a network connected to the home.” *Hino*, ¶ 0014. “This remote control system has . . . a gateway (GW) apparatus 10 connecting the home network 30 to the outside network 50 and acting as a mediator between the communication protocols employed by them, and a control device 60 used for directly inputting control commands into the GW apparatus 10 with no network routed.” *Id.* at ¶ 0103. “The GW apparatus 10 functionally includes . . . appliance control command producing means 11 for receiving commands of control of the home appliances 31 and 32 from a control device 60 and/or outside network 50 and producing control commands to the home appliances 31 and 32; and command outputting means 14 for outputting the produced control commands to a desired home appliance 31 (32), a monitor 71, and others.” *Id.* “FIG. 8 illustrates an exemplary input of the control command accepted by the appliance control command producing means 11. The control command includes the type of input showing that control is commanded, an objective appliance to be controlled, the ID of a control-requesting device, a panel ID showing operated panel parts, and an operation content.” *Id.* at ¶ 0117. Such a system cannot constitute a teaching or suggestion of “[a] network process unit including: a detecting unit configured to detect a power supply control packet in communication packets sent from [an] electronic apparatus, the power supply control packet containing a power-on command for causing [an] AV function unit to recover from a standby mode . . . or a power supply standby command for causing the AV function unit to shift to the standby mode,” as recited in new claim 14 (emphasis added). Moreover, the system of *Hino* fails to teach or suggest “a controlling unit configured to cause [an] AV function unit to recover from or

shift to [a] standby mode, when the detecting unit detects the power supply control packet,” as also recited in new claim 14 (emphasis added). Indeed, ***Hino* also fails to teach or suggest either “a power supply control packet” or “communication packets” and therefore cannot teach or suggest the aforementioned recitations.**

Thus, claim 14 is allowable over *Hino* at least for this reason.

Accordingly, claim 14 is allowable.

III. Claim Rejections Under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejections of claims under 35 U.S.C. § 103(a) as unpatentable over the cited art because the Examiner has not established a *prima facie* case of obviousness as required under 35 U.S.C. § 103(a).

“To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), each of three requirements must be met. First, the references, taken alone or in combination, must teach or suggest each and every element recited in the claims. See M.P.E.P. § 2143.03 (8th ed. 2001). Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the references in a manner resulting in the claimed invention. Third, a reasonable expectation of success must exist. Moreover, each of these requirements must “be found in the prior art, and not be based on applicant’s disclosure.” M.P.E.P. § 2143 (8th ed. 2001).

Claim 8 stands rejected under 35 U.S.C. § 103(a) over *Inoue* in view of *Hino*. As discussed above, *Inoue* teaches “a home electronics system . . . includ[ing] a home server 22, a cellular phone 46 connected to home server 22 via a public line network 44, and devices for control 24A to 28C controlled in response to a signal from home server 22.” *Inoue*, col. 4, ll. 24-29. Specifically, *Inoue* shows home server 22 distinctly separate from devices 24A to 28C. See FIG. 1. *Inoue* does not teach or suggest “[a]

server apparatus comprising: a network process unit . . . [and] an AV function unit configured to process video data and sound data,” as recited in amended claim 8 (emphasis added).

Hino fails to overcome the deficiencies of *Inoue* set forth above. *Hino* discloses a “remote control system [having] . . . a gateway (GW) apparatus 10 connecting the home network 30 to the outside network 50 and acting as a mediator between the communication protocols employed by them, and a control device 60 for directly inputting control commands in the GW apparatus 10.” *Hino*, ¶ 0103. “The GW apparatus 10 functionally includes . . . command outputting means 14 for outputting the produced control commands to a desired home appliance 31 (32), a monitor 71, and others.” *Id.* (emphasis added). Thus, *Hino* also fails to teach or suggest “[a] server apparatus comprising: a network process unit . . . [and] an AV function unit configured to process video data and sound data,” as recited in amended claim 8 (emphasis added).

For at least the reasons stated above, neither *Inoue*, nor *Hino*, nor any combination thereof, teaches or suggests all the elements of Applicant’s amended claim 8. Therefore, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a), and requests allowance of independent claim 8.

Claim 9, which depends from independent claim 8, stands rejected under 35 U.S.C. § 103(a) over *Inoue* in view of *Hino* and *Staller*. *Staller* fails to overcome the deficiencies of *Inoue* and *Hino* set forth above. *Staller* teaches “a home entertainment system 20, including [a] remote control 22 . . . [and] a plurality of components 24.” *Staller*, col. 2, ll. 15-18. In the system of *Staller*, “the remote control 22 sends the

'on/off' toggle command to the component 24 in question." *Id.* at col. 3, ll. 46-47. Thus, *Staller* also fails to teach or suggest "[a] server apparatus comprising: a network process unit . . . [and] an AV function unit configured to process video data and sound data," as recited in amended claim 8 (emphasis added), from which claim 9 depends.

For at least the reasons stated above, neither *Inoue*, nor *Hino*, nor *Staller*, nor any combination thereof, teaches or suggests all the elements of Applicant's amended claim 8, from which claim 9 depends. Therefore, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a), and requests allowance of dependent claim 9.

IV. Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: March 12, 2007

By: 

Richard V. Burgujian
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Attachments:

Copy of Japanese Patent Publication No. 2001-16221 and English Abstract thereof;
Copy of French Patent Application No. 2808393 and English Abstract thereof;
Copy of the English Language Search Report Provided by the European Patent Office dated September 10, 2003 for related European Patent Application No. EP 03014388;
Copy of Japanese Patent Publication No. 2001-309455 and English Abstract thereof;
Copy of the Japanese Notice of Reasons for Rejection mailed December 7, 2004 provided by the Japanese Patent Office for related Japanese Patent Application No. 2002-188444;
Copy of the English Language Notice of Reasons for Rejection mailed December 7, 2004 provided by the Japanese Patent Office for related Japanese Patent Application No. 2002-188444;
Copy of the Japanese Notice of Reasons for Rejection mailed March 8, 2005 provided by the Japanese Patent Office for related Japanese Patent Application No. 2002-188444;
Copy of the English Language Notice of Reasons for Rejection mailed March 8, 2005 provided by the Japanese Patent Office for related Japanese Patent Application No. 2002-188444;
Copy of Information Disclosure Statement filed on June 25, 2003;
Copy of PTO Form 1449 filed on June 25, 2003;
Copy of Postcard stamped by U.S. Patent and Trademark Office on June 25, 2003;
Copy of Information Disclosure Statement filed on November 5, 2003;
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